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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Dennis KING	:	Confirmation Number: 2350
	:	
Application No.: 09/407,141	:	Group Art Unit: 2626
	:	
Filed: September 28, 1999	:	Examiner: L. Spooner
	:	
For: REUSABLE CONTROLS FOR AUTOMATICALLY TRANSLATING TEXT BETWEEN LANGUAGES	:	

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed December 5, 2007, wherein Appellant appeals from the Examiner's rejection of claims 1-5, 7, 9-13, 15, 17-21, and 23

I. REAL PARTY IN INTEREST

This application is assigned to IBM Corporation by assignment recorded on September 28, 1999, at Reel 010282, Frame 0584.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals and interferences.

III. STATUS OF CLAIMS

Claims 1-5, 7, 9-13, 15, 17-21, and 23 are pending and eight-times rejected in this Application. Claims 6, 8, 14, 16, 22, and 24-28 have been cancelled. It is from the multiple rejections of claims 1-5, 7, 9-13, 15, 17-21, and 23 that this Appeal is taken.

IV. STATUS OF AMENDMENTS

The claims have not been amended subsequent to the imposition of the Eighth Office Action dated September 5, 2007 (hereinafter the Eighth Office Action).

V. SUMMARY OF CLAIMED SUBJECT MATTER

Referring to Figure 4 and also to independent claims 1, 9, and 17, a method, system, and computer programming product for automatically translating text from a source language to a target language with a reusable control is disclosed. In step 430, parameters are initialized to identify a plurality of variables comprising at least the source and the target language (page 7, lines 4-6). In step 440, when translation should be invoked for text in a field of the control is identified (page 7, lines 6-8). The steps of initializing 430 and identifying 440 are encapsulated in order to make a reusable data object (page 3, lines 3-4). The text is inputted into the field (page 7, lines 10-11; page 7, lines 15-17).

Referring to Figure 4 and also to independent claims 7, 15, and 23, a method, system, and computer programming product for automatically translating text from a source language to a target language with a reusable control is disclosed. In step 430, parameters are initialized to identify a plurality of variables comprising at least the source and the target language (page 7, lines 4-6). In step 440, when translation should be invoked for text in a field of the control is

- 1 identified (page 7, lines 6-8). The steps of initializing 430 and identifying 440 are encapsulated
- 2 in order to make a reusable data object (page 3, lines 3-4). The text is outputted from the field
- 3 (page 7, lines 15-17).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-5, 7, 9-13, 15, 17-21, and 23 were rejected under 35 U.S.C. § 102 for anticipation based upon Hamann, U.S. Patent No. 6,092,032.

VII. ARGUMENT

**THE REJECTION OF CLAIMS 1, 3-4, 6-7, AND 9-14 UNDER 35 U.S.C. § 102 FOR
ANTICIPATION BASED UPON MORTIMER**

For convenience of the Honorable Board in addressing the rejections, claims 3-4, 6-7, and 9-14 stand or fall together with independent claim 1.

As is evident from Appellant's previously-presented comments during prosecution of the present Application and from Appellant's comments below, there are questions as to how the limitations in the claims correspond to features in the applied prior art. In this regard, reference is made to M.P.E.P. § 1207.02, entitled "Contents of Examiner's Answer." Specifically, the following is stated:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

...

(9)(c) For each rejection under 35 U.S.C. 102 or 103 where there are questions as to how limitations in the claims correspond to features in the prior art even after the examiner complies with the requirements of paragraphs (c) and (d) of this section, the examiner must compare at least one of the rejected claims feature by feature with the prior art relied on in the rejection. The comparison must align the language of the claim side-by-side with a reference to the specific page, line number, drawing reference number, and quotation from the prior art, as appropriate. (emphasis added)

Therefore, if the Examiner is to maintain the present rejections and intends to file an Examiner's Answer, the Examiner is required to include the aforementioned section in the Examiner's Answer.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single

reference.¹ Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art and that such existence would be recognized by one having ordinary skill in the art.² As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference.³ This burden has not been met.

On pages 12 and 13 of the Amendment filed June 18, 2007 (hereinafter the Seventh Response), Appellant presented the following arguments. Specifically, Appellant noted that the Examiner has completely ignored the claimed limitations regarding the "reusable control." Moreover, the teachings of Hamann are unrelated to a reusable control. Instead, Hamann is directed to a system and method for translating text in a computer program.

The Examiner's response to this argument is found on page 2 of the Eighth Office Action and reproduced below:

In response to applicant's arguments, "Moreover, the teachings of Hamann are unrelated to a reusable control." The Examiner cannot concur, wherein Hamann teaches in C.4.lines 33-38 and C.4 lines 66-67, menus, buttons, static text, and other objects having associated text, said objects are interpreted as reusable controls, as broadly claimed. The associated text is inputted into the field containing the text, or outputted in the user interface.

Despite the Examiner interpreting the teachings in Hamann as to "menus, buttons, static text, and other objects having associated text" as "reusable controls," the Examiner has (i) failed to

¹ In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

² See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

1 establish an explicit claim construction for the term "reusable controls," and (ii) failed to explain
2 how such a claim construction reflects the broadest reasonable interpretation of the term
3 consistent with Appellant's specification.
4

5 As is known to those skilled in the art "a reusable control," as well as the claimed
6 "reusable data object," are associated with distributable, object-oriented coding (e.g., Java
7 objects). The system disclosed by Hamann, however, would not be considered by one having
8 ordinary skill in the art as being similarly related to distributable, object-oriented coding.
9 Instead, Hamann describes a system in which a translator is embedded with an application
10 program and the translator replaces text associated with the application program with text in a
11 target language. Thus, Hamann fails to identically disclose all of the claimed limitations, as
12 recited in claim 1.
13

14
15 In the Seventh Response, Appellant further argued that as claimed, the text to be
16 translated is in a field of the control and the text is either inputted into the field or outputted from
17 the field. Thus, the translation occurs to text that is found in a field of a control. This type of
18 translation is fundamentally different from the type of translation performed by Hamann, which
19 is directed to translation of the text within the software itself.
20

21 The Examiner's response to this argument is found in the paragraph spanning pages 2 and
22 3 of the Eighth Office Action and reproduced below:

23 Regarding applicant's arguments, "Hamann, which is directed to translation of the software itself."
24 The Examiner cannot concur, wherein the user interface text, or any text, i.e. the text included in
25 the control, is the focus of the translation, not the software, see C.3 lines 43-50.

For ease of reference, the Examiner's cited passage is reproduced below:

As the computer software 12 runs or before it begins to run on the data processing system 10, the computer software 12 references one or more translation tables 14 containing target language text in one or more target languages and other translation data. Any text generated by the computer software 12, such as application text and system message text, is then displayed as translated text 16 in a target language.

A review of the above-reproduced passage yields the conclusion that Appellant's prior characterization of the prior art is correct. Specifically, Hamann describes translation of the software itself (i.e., text generated by the computer software 12, such as application text and system message text, is translated). Instead, as recited in claim 1, the text "inputted into the field" is the subject of the control (and thus, the translation).

On page 13 of the Seventh Response, Appellant presented further arguments regarding the Examiner's assertion that "his embedded translator includes encapsulation of the initializing and identifying steps," with which Appellant disagreed. The translator 48 of Hamann does not perform the initializing of the parameters. As described in column 4, lines 33-44:

The application program(s) 24 preferably includes a translator 48, such as a translation algorithm embedded within each application program 24, for obtaining the translation data 34 from the translation master table 30 and the target language text items 44 from the appropriate application text translation table 40. The translator 48 causes the application program 24 to use the target language application text items 44 in the target language indicated by the translation configuration settings 22, as the application program 24 creates or constructs objects, such as windows 50, menus 52, buttons 54 and other objects having associated text, to form a graphical user interface (GUI).

As described therein, the parameters for the target language is found in the configuration settings 22. Moreover, as described in column 3, lines 57-59:

A translation configuration selector 20 which is part of a system configuration tool, allows a user to select or set one or more translation configuration settings 22, such as a locality setting that identifies the desired target language.

The system configuration selector 20 (see Fig. 2) is completely separate from the translator. Thus, the step of initializing is not encapsulated within the translator program 48, as asserted by the Examiner.

The Examiner's response to this argument is found on pages 2 and 3 of the Eighth Office Action and reproduced below:

In response to applicant's arguments, "Thus, the step of initializing is not encapsulated within the translator program 48, as asserted by the Examiner." The Examiner cannot concur, wherein the applicant claims, initializing parameters to identify a plurality of variables comprising at least the source and target language. Hamann teaches in C.7.lines 58-60, a translator, which initializes parameters, despite the location of configuration settings, initialization begins within the **translator**, which contains the variables comprising the source and target language, C.4 lines 13-16-source and target language locality identifier, the translator is started with the application program which contains the reusable controls, the parameters comprising the source and target languages, and locality. Hamman [sic] further explicitly teaches configuration, initializing based on the translator, C.6 lines 32-35. Hamann further teaches, identifying when translation should be invoked for text in a field of the control, C.7 lines 55-60, also performed by the translator, by query. The initializing and identifying are encapsulated based on the translator (C.7.lines 54-60-C.4.lines 33-38-his embedded translator includes encapsulation of the initializing and identifying steps, see above explanation-initializing and identifying), initializing the locality and language tables comprising the variables for source and target languages, and by query from the translator, a determination is made when translation should be invoked, providing a reusable data object. Thus, as currently claimed, each and every limitation has been addressed by Hamann. (emphasis in original)

The Examiner's response is essentially to assert that "the initialization begins with the **translator**" (emphasis in original). However, as already discussed above, Hamann does not teach that initialization begins with the translator; instead, Hamann teaches that initialization starts with the system configuration selector 20, which is completely separate from the translator. The Examiner's response, however, does not directly address this previously presented argument.

Of particular note is the Examiner's further comments on page 4 of the Eighth Office Action, in which the Examiner stated the following:

1 The Examiner fails to see the difference in applicant's claimed invention and Hamann. Wherein
2 applicant teaches, p.7. para. 1, "[T]he developer will identify when the translation should be
3 invoked for data in relevant controls and simple calls the action in the control to perform the
4 translation." Hamann performs the same function. The Examiner notes as claimed, applicant's text
5 is inherently embodied in a software, or program application which comprises text to be translated.
6 The Examiner notes Hamann further comprises an encapsulated method including initializing and
7 identifying.. - for inputted and outputted text, as claimed by applicant.
8

9 The Examiner's comment that "Hamann performs the same function" is particularly noteworthy.
10 Whether or not a particular disclosed element (or even disclosed system, as a whole) performs
11 the "same function" as a claimed element (or the claimed invention, as a whole), by itself, is not
12 relevant to determination of anticipation within the meaning of 35 U.S.C. § 102. Anticipation is
13 satisfied by identical disclosure, not equivalent disclosure. Therefore, any reliance by the
14 Examiner on the equivalent disclosure of a claimed feature constitutes legal error.
15

16 Regarding the Examiner's statement that "applicant's text is inherently embodied in a
17 software, or program application which comprises text to be translated," Appellant is unclear as
18 to the point attempted to be made by the Examiner. As recited in claim 1, "said text is inputted
19 into the field." This limitation is completely absent from the Examiner's cited teachings with
20 Hamann.
21

22 As to the Examiner's assertion that "Hamann further comprises an encapsulated method
23 including initializing and identifying.. - for inputted and outputted text," this statement is
24 conclusory and factually unsupported. As noted above, the teachings of Hamann do not
25 described a reusable data object, particularly one that encapsulates both the claimed initializing
26 and identifying steps.
27

1 Conclusion

2 Based upon the foregoing, Appellant respectfully submits that the Examiner's rejection
3 under 35 U.S.C. § 102 based upon the applied prior art is not viable. Appellant, therefore,
4 respectfully solicits the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 102.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: February 5, 2008

Respectfully submitted,

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CUSTOMER NUMBER 46320

VIII. CLAIMS APPENDIX

1. A method of automatically translating text from a source language to a target language with a reusable control, comprising the steps of:

initializing parameters to identify a plurality of variables comprising at least the source and the target language;

identifying when translation should be invoked for text in a field of the control;

encapsulating said steps of initializing and identifying in order to make a reusable data object; and

wherein said text is inputted into the field.

2. The method of Claim 1, wherein said step of initializing further comprises initializing a subject area.

3. The method of Claim 2, wherein said step of initializing further comprises initializing domains.

4. The method of Claim 3, wherein said step of initializing further comprises initializing transactional needs.

5. The method of Claim 4, wherein said step of initializing further comprises initializing input and output locations.

7. A method of automatically translating text from a source language to a target language with a reusable control, comprising the steps of:

initializing parameters to identify a plurality of variables comprising at least the source and the target language;

identifying when translation should be invoked for text in a field of the control;

encapsulating said steps of initializing and identifying in order to make a reusable data object; and

wherein said text is outputted from the field.

9. A reusable automatic text translation control for translating text from a source language to a target language, comprising:

means for initializing parameters to identify a plurality of variables comprising at least the source and the target language;

means for identifying when translation should be invoked for text in a field of the control;

means for encapsulating said steps of initializing and identifying in order to make a reusable data object; and

wherein said text is inputted into the field,

10. The reusable automatic text translation control of Claim 9, wherein said means for initializing further comprises means for initializing a subject area.

11. The reusable automatic text translation control of Claim 10, wherein said means for initializing further comprises means for initializing domains.

12. The reusable automatic text translation control of Claim 11, wherein said means for initializing further comprises means for initializing transactional needs.

13. The reusable automatic text translation control of claims 12, wherein said means for initializing further comprises means for initializing input and output locations.

15. A reusable automatic text translation control for translating text from a source language to a target language, comprising:

means for initializing parameters to identify a plurality of variables comprising at least the source and the target language;

means for identifying when translation should be invoked for text in a field of the control;

means for encapsulating said steps of initializing and identifying in order to make a reusable data object; and

wherein said text is outputted from the field.

17. A computer programming product recorded on computer readable medium for automatically translating text from a source language to a target language with a reusable control, comprising:

computer readable means for initializing parameters to identify a plurality of variables comprising at least the source and the target language;

computer readable means for identifying when translation should be invoked for text in a field of the control;

computer readable means for encapsulating said steps of initializing and identifying in order to make a reusable data object; and

wherein said text is inputted from the field.

18. The computer program product of Claim 17, wherein said computer readable means for initializing further comprises computer readable means for initializing a subject area.

19. The computer program product of Claim 18, wherein said computer readable means for initializing further comprises computer readable means for initializing domains.

20. The computer program product of Claim 19, wherein said Computer readable means for initializing further comprises computer readable means for initializing transactional needs.

21. The computer program product of Claim 20, wherein said computer readable means for initializing further comprises computer readable means -for initializing input and output locations.

23. A computer program product recorded on computer readable medium for automatically translating text from a source language to a target language with a reusable control, comprising:

computer readable means for initializing parameters to identify a plurality of variables comprising at least the source and the target language;

computer readable means for identifying when translation should be invoked for text in a field of the control;

computer readable means for encapsulating said steps of initializing and identifying in order to make a reusable data object; and

wherein said text is outputted from the field.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellant in this Appeal, and thus no evidence is attached hereto.

X. RELATED PROCEEDINGS APPENDIX

Since Appellant is unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.